

EUREKA TOWNSHIP

DAKOTA COUNTY

STATE OF MINNESOTA

Special Town Board Meeting
July 22, 2013

Town Board members present were Pete Storlie, Steve Madden, Brian Budenski, Mark Ceminsky and Kenny Miller. Deputy Clerk/Treasurer Linda Wilson recorded the minutes. Attorneys Patrick Kelly and Jerry Fila were also present.

Chair Pete Storlie called the Special Meeting of the Eureka Town Board to order at 7:00p.m.

Special Meeting Agenda:

Roads:

1. FEMA Projects
2. Road & Ditch Repairs
3. Culvert Repairs
4. Hamburg Ave. Hill (Ch-ub Lake Road)
5. Graveling Township Roads
6. CapX2020 – Hours of Operation

Agenda Closed Meeting:

Closed meeting under Minnesota State Statute Section 13D.03, subd. 3 (b) attorney client privilege with Attorneys to discuss possible pending litigation with William A. Fredlund and William A. Funk vs. Eureka Township.

Open session Items:

1. FEMA Projects

Supervisor Mark Ceminsky updated the Board on projects that have already been approved and paid for by FEMA. Currently there are 37 individual projects that need to be completed by year's end or the Township would need to file for an extension and return funds. The Clerk's office keeps a FEMA book with the current projects which tracks the projects being completed.

2. Road & Ditch Repair

Supervisor Mark Ceminsky presented an itemized list of road and ditch repairs needed in the Township. Discussion of the six individual projects needing repair: Grenada Ave. from County Road 86 to 700 feet north; Grenada Ave. from south side to north side of

Chub Lake; 272nd Street from Grenada Ave. to Hamburg Ave.; Highview Ave. south of 267th Street; Cedar Ave. at 255th Street and Eureka Estates ditches

A motion was made by Supervisor Kenny Miller to authorize the road supervisor and road contractor to move forward on the road and ditch repairs items number 1 through 6 and to utilize anything that we remove in other areas of the Township if applicable. Motion seconded by Supervisor Pete Storlie. Motion passes by unanimous vote.

3. Culvert Repairs

Chub Lake Hill is the most critical, culverts collapsed and temporary fixes have been made to open the road after flooding. Culverts at Highview south of Cross Nursery, Ipava at river crossing and Cedar and 255th (Frontier will be paying for this repair, still need approval to do the project).

Supervisor Storlie asked the attorneys for clarification on repairs that need to be addressed on unsafe or impassable roads, what is the authority between Town Board meetings to having those fixed. There is a \$2500.00 discretionary fund in-between meetings but if repairs exceed that cost what are the Township's legal rights to make repairs. Attorney Patrick Kelly spoke that emergency repairs could be made as long as the Township had documentation by an inspector or road person, that you have an emergency situation or hazard that jeopardizes the public health and safety of individuals. That will allow you to do an emergency repair, and the township is covered legally as long as the documentation is in place. By talking about it this evening you are now putting it on notice, you can set it up and affirm it at the next Board meeting. Supervisor Ceminsky indicated that the board was notified two months ago but only a temporary fix of gravel has been done.

A motion made by Supervisor Pete Storlie to authorize the road supervisor and road contractor to replace the culvert on Cedar and 255th and on Highview south of Cross Nursery north of 235th. Motion seconded by Supervisor Brian Budenski. Motion passed by unanimous vote.

A motion was made by Supervisor Kenney Miller to authorize the work on Ipava near Knudsen's but treat it as a separate issue because of the possibility of higher costs. Motion seconded by Supervisor Pete Storlie. Motion passes by unanimous vote.

Supervisor Mark Ceminsky will obtain an estimate for the August Town Board Meeting for the Ipava Ave. project due to concrete culvert and costs.

4. Hamburg Ave. Hill (Chub Lake Road)

An itemized estimate submitted by Mark Henry Excavating to restore Hamburg Avenue was addressed with an additional cost of \$2,330.00 to be added for installation of Curlex blanket, seed, and to raise the road bed approximately 200 ton, not to include clean out at the bottom of Hamburg Ave and the additional gravel for that area. The additional monies did not include an overlay on 272nd Street or overlay on Chub Lake bringing the total estimate to \$10, 500.00. These dollars would come from the escrow monies that were moved over to road repairs and some additional FEMA funds.

A motion made by Supervisor Kenny Miller to authorize the Hamburg Ave. Hill repairs as proposed tying the ditch clean outs and reestablishment on the Nemeyer 's ditch. Motion seconded by Supervisor Pete Storlie. Motion passed by unanimous vote.

4. Graveling Township Roads

Graveling and dust coating is done except for a few minor sections and on budget. Supervisor Ceminsky presented a report on the storm damaged roads from the recent rains that flooded and closed 12 Township roads. Roads have been repaired and opened.

5. CapX 2020 – Hours of Operation

Supervisor Kenny Miller recused himself from agenda item # 6 CapX 2020.

Stan Tessburg, Project Manager of the CapX project and Attorney Howard Rostin were present to represent Cap X. Cap X's utility permit as presented states that for their construction the hours considered necessary would be Monday -Friday. 7a.m. to 7p.m. and Saturday from 7am to 5:30pm and no work on Sundays or holidays. A discussion and recommendation by the Township attorney that we follow the timeline of 7am to 7pm, Monday through Friday hours and 7:00am -5:30pm does not meet the township's IUP permit with the Windmill mining operations. A question of whether the Township needed to amend the mining operation's hours as this location will be used for staging of materials and parking for the CapX project.

Supervisor Kenny Miller stated he was not changing his hours of operation for his mining operation and anything that CapX would do, would be separate from his hours. Patrick Kelly, attorney for Township asked that Supervisor Storlie ask for a clear definition of what is a lay down yard. Stan Tesser spoke that a lay down yard is a material yard, a staging area where they would have their materials delivered to and taken from and moved to the job site. It is a place where equipment would be stored at the end of the day; a show up location for crews in the morning.

Attorney Jerry Fila asked that Supervisor Storlie ask what kind of activities occur after 7:00 p.m. and for how long. Stan Tessner spoke on a typical day the work at the job site and structure locations would cease, the workers would go to their vehicles in the yard and go home. Mr. Kelly clarified that the lay down site is basically a parking lot, equipment does not return to this site at the end of the day, no construction activity.

Attorney Jerry File asked Supervisor Storlie to ask how much noise is generated in the law down area, before 7:00am and after 7:00p.m. It is generally quiet during the day, one crew tying the reinforcements. In the morning noise would be the starting of trucks (employee vehicles and company trucks)

Attorney Kelly felt that CapX's permit and operations of hours would be applicable and the mining hours IUP would not have to be adjusted. Language for CapX's utility permit be defined as 7:00a.m. to 7:00 p.m. and Sat 7:00 am to-5:30 p.m. Adding lay down hours of operation as a separate items for parking and staging. Supervisor Kenny Miller indicated his current permit allowed for one hour before for staging and one hour after for clean up.

The Board members had a discussion with the CapX representatives regarding the pole colors and their attorney agreed to consult with his clients the concerns expressed.

A motion made by Supervisor Brian Budenski to allow the hours of operation from 8:00 a.m. to 4:00 p.m. Monday through Friday. No second. No motion.

A motion made by Supervisor Pete Storlie we authorize the hours of operation from 7:00 a.m. to 7:00 p.m. Monday through Friday and 7:00a.m. to 5:30p.m. on Saturdays with ½ hour before, 6:30a.m. to 7:00a.m and ½ hr. after, 7:00p.m. to 7:30p.m. for prep time at the lay down yard. Motion seconded by Steve Madden. Vote taken: Pete Storlie, Mark Ceminsky and Steve Madden voted yes and Brian Budenski was opposed. Motion passes.

Mark Ceminsky will work with Stan Tessner to revise the CapX utility permit.

Supervisor Pete Storlie moved to take a five minute recess and then go into a closed session. He asked if there was any opposition to the recess, none indicated, we are in recess at 8:15 p.m.

At 8:20p.m. the Town Board came out of recess into the Special Town Board meeting.

Attorney Patrick Kelly spoke that there is a request for a closed meeting pursuant to Minnesota State Statute Section 13D.03, subd. 3 (b) attorney client privilege with Attorneys to discuss possible pending litigation with William A. Fredlund and William A. Funk vs. Eureka Township. Time is now 8:21 p.m., pursuant to the statute that you move into a closed session. Attorney Jerry Fila added that the discussion, out of

necessity may involve some comments on the current law suit entitled Teresa Lynn Petter vs. the Town of Eureka as contained in court file No. 19 HAC V12-112. He will send the comments for the record.

A motion was made by Supervisor Pete Storlie to move into closed meeting. Motion seconded by Supervisor Mark Ceminsky. Motion carried by unanimous vote.

The Town Board moved into closed session at 8:23.p.m.

Attorney Patrick Kelly indicated the Town Board came out of closed session at 9:00 p.m. discussing possible threatened litigation with Ralph A. Fredlund and William A. Funk. The Town Board has given directions to the attorney onto how to respond.

A motion by Supervisor Brian Budenski to adjourn. Motion seconded by Supervisor Mark Ceminsky

Meeting adjourned at 9:05 p.m.